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Planning Department Newsletter

DEVELOPMENTS PROPOSED ALONG ALBION DRIVE

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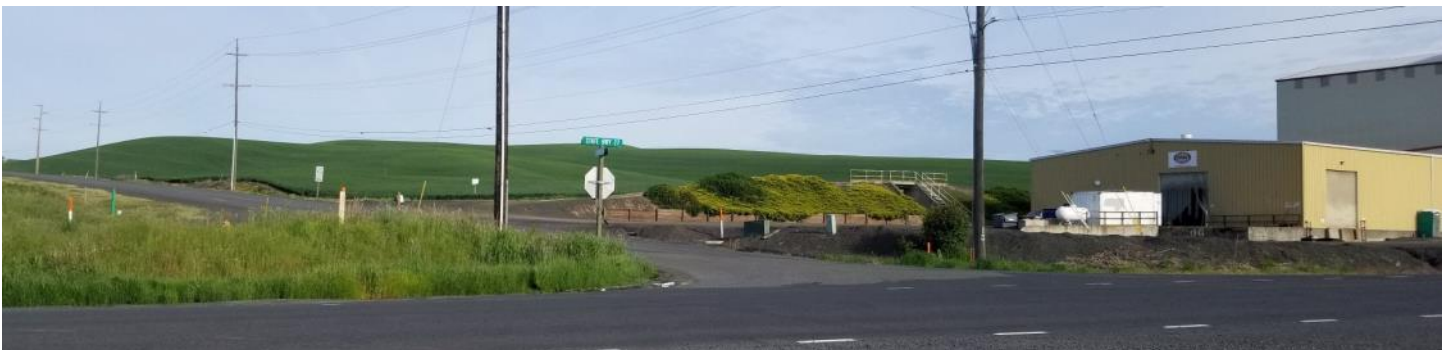
Until a couple of years ago, the area on the far north part of town had not seen much in the way of new development activity. That changed in 2018 when the city issued a series of building permits for the Hills on Grand apartment complex at 2905 North Grand Avenue. A total of 286 residences are either built or under construction at that site.

Now it appears there will be two more projects under way soon in that vicinity. In February of this year, the city received a site plan review application for the Aspen Heights apartment complex. This proposal involves the provision of 196 dwellings on a 23-acre parcel located off the south side of Albion Drive just west of Grand Avenue. The housing at this site is proposed to be duplex style buildings that would contain a mix of two-bedroom to five-bedroom units. In all, 752 bedrooms are planned for this complex. A 6,000-square-foot clubhouse will also be

incorporated into the project. The structures are proposed to be arranged in a dispersed pattern accessible by a network of internal driveways. A total of 765 parking spaces are proposed for the complex. The city is currently reviewing a second submittal of the site plan for this project.

The property selected for the Aspen Heights development was the subject of a zone change application filed in September of last year. At that time, the parcel was zoned I1 Light Industrial. The rezone to R3 Medium Density Multi-Family Residential was approved by the Mayor and City Council in January.

The other proposal in the works for this area is the Whitman County Transportation Co-Operative Center to be located on the north side of Albion Drive immediately west of Grand Avenue. Earlier this week, the Pullman School District submitted a site plan review application for this



The area near the intersection of North Grand Avenue and Albion Drive will look much different if developments recently proposed by Aspen Heights and the Pullman School District are established.

project, which involves the construction of a 29,180-square-foot bus maintenance and storage facility on a 5.4-acre site. The proposed building will include a maintenance shop, a drive-thru bus wash bay, a bus garage, and a business office. A grain processing plant operated by the Pacific Northwest Farmers Cooperative exists on the front portion of the site. The Transportation Co-Op Center is

planned to be located in back of the grain processing facility. The city is currently reviewing the initial site plan drawing for this project.

To stay informed about the status of the city's review process for these proposals, watch for future editions of this Planning Department Newsletter. A list of current development applications is provided in the "Pending Land Use Proposals" section.

DRAFT COMPREHENSIVE PLAN UPDATE TO BE RELEASED IN JUNE

At present, the planning department is putting the finishing touches on a draft update to the city's Comprehensive Plan. The department anticipates that next month the document will be distributed to the City Council and Planning Commission, and released to the general public.

Pullman's existing Comprehensive Plan was adopted in 1999, with significant amendments adopted in 2013. The planning department has been gathering public input for several years to create an updated set of vision statements, goals, and policies that will provide direction for future land use and development in this community. The draft document will contain chapters regarding the purpose and applicability of the plan, vision and framework principles, land use, community design, housing, transportation, parks and open space, capital facilities, and implementation. The draft document will also include several appendices that provide background information utilized in the formulation of the proposed plan.

BERK Consulting, Inc. of Seattle has been working with the planning department over the past six months to help prepare the draft update. Prior to that, the consulting firm of David Evans and Associates, Inc. provided assistance on this project.



Once the draft Comprehensive Plan update is released, planning department staff expects to provide a summary of the document at a City Council meeting. When the city is able to resume in-person public meetings, the Planning Commission will likely conduct public workshops to review the document in detail before the city moves on to required formal

hearings before the Commission and Council.

As with all draft plans and programs produced by the planning department, we welcome public feedback on this draft plan update. Staff encourages submittal of comments by means of email, postal mail, or telephone communication.

UNDERSTANDING PUBLIC RIGHTS-OF-WAY (PART 2)

In the January 2019 edition of the Planning Department Newsletter, we presented the first article on “Understanding Public Rights-of-Way.” That article provided information on the basic purposes of public rights-of-way. This second installment addresses sidewalks, street trees, and the areas near the outer edge of the right-of-way.

The term “right-of-way,” as used here, is the space that is established for transportation and other facilities (such as utilities). The width of a right-of-way is almost always larger than the width of a street. For instance, the standard distance across a residential street is 33 feet, while the standard right-of-way breadth in residential areas is 60 feet. The extra width is required for the installation of sidewalks, utility lines, and other public improvements. That additional right-of-way area is also available in case a street needs to be widened.

Sidewalks and Parking Strips: Who is Responsible for What?

The topic of sidewalks can be a source of confusion because it is an area of overlapping responsibility. On the one hand, the general municipal duties with respect to rights-of-way apply to sidewalks: municipalities are responsible for maintaining sidewalks and repairing defective conditions when they have actual or constructive notice. On the other hand, some municipalities, such as the city of Pullman, adopt ordinances requiring abutting property owners to maintain sidewalks and keep them free of snow, ice, and fallen leaves.

A municipality’s ability to transfer sidewalk duties to abutting owners is limited, however. In the case of *Rivett v. City of Tacoma*, the Washington Supreme Court struck down an ordinance that purported to make it illegal for abutting owners to allow dangerous sidewalk conditions to exist regardless of whether the abutting owner caused the condition. The ordinance was found to be unreasonable and unduly oppressive.

Abutting property owners may be liable if they cause or contribute to a sidewalk defect. Under the “special use doctrine,” abutting owners who make special use of the sidewalk have a duty to ensure they don’t create

unsafe conditions for pedestrians. For example, in *Stone v. City of Seattle*, the court ruled that an abutting owner may be liable when the sidewalk defect was caused by its tenants repeatedly driving over the sidewalk due to a narrow driveway. This result did not exonerate the City—it too was liable for failing to cure a sidewalk defect.

Trees in Planter Strips (“Street Trees”)

Trees can make streets feel more park-like, but they also require maintenance and give rise to legal duties. The traditional rule is that since a right-of-way is an easement, the abutting property owner may plant, maintain, and remove trees in the planter strip and a municipality cannot remove such trees unless they are a hazard or a nuisance. However, the rules for planting and maintaining street trees have evolved over time. Nowadays, many municipalities, including the city of Pullman, regulate pruning and maintenance of street trees and require permission for their removal. While it is common for municipalities to require abutting owners to maintain street trees, there are instances in which city crews will maintain street trees, such as in a historic areas or central business districts.

On the Edge:

Where Right-of-Way Meets Abutting Property

As noted above, most rights-of-way in residential areas are 60 feet wide and street improvements often do not take up this entire width. This outermost portion of the right-of-way is sometimes called the “fringe.” Since municipal street right-of-way is usually an easement, what happens in the fringes?

According to the case of *Nystrand v. O’Malley*, the fringe area may be used by the abutting property owner “in any manner not inconsistent with the easement in the public for street purposes.” An abutting owner can therefore maintain the fringes and otherwise use it so long as the use is compatible with the city’s existing and planned future use of the right-of-way. However, if an abutting owner plants trees in the fringe that causes root damage to a sidewalk, for example, the owner can be liable for sidewalk damage and injuries. Similarly, permanent structures or retaining walls in the fringe may not be consistent with the public’s interest in the right-of-way, and additionally, may violate local setback requirements.

Pullman, and many other jurisdictions, allow for fences in these fringe areas. Before installing any fence, though, property owners are advised to check with the planning department regarding potential height and location restrictions.

[The source for much of the above information was a November 7, 2017 article written by Oskar Rey for the Municipal Research and Services Center of Washington. Mr. Rey is an attorney with over 20 years of municipal law experience.]



Sidewalks are an integral part of a community’s pedestrian system, so it is important to maintain them in good condition.



Pending Land Use Proposals

Displayed below are land use applications submitted for planning department action or city-generated proposals for planning provisions that require a public meeting, public notice, or site plan review in accordance with the city code.

PROJECT	DESCRIPTION	LOCATION	STATUS
Comprehensive Plan Revision	full-scale revision of city's Comprehensive Plan	Citywide	consultant and staff preparing draft plan
Animal/Fowl Zoning Code Amendments	amend code related to keeping of chickens and miniature pigs	Citywide	PC held discussions at 3/27/19 and 4/24/19 meetings; PC recommended approval on 12/18/19; CC action suspended
Small Cell Facilities Zoning Code Amendments	revise code to provide for small cellular network equipment	Citywide	PC hearing continuance scheduled for 4/22/20 was canceled; further action suspended
Hearing Examiner Zoning Code Amendments	amend code to establish a hearing examiner system	Citywide	CC discussion suspended
Kamiak Cottages PRD Preliminary Plat and Kamiak Cottages Planned Residential Development	divide 3.7 acres into 18 lots and develop 12 cottage homes and accessory structures on a portion of the site	300 feet southeast of the intersection of NW Terre View and NW Canyon View Drives	PC action suspended
Gilbane Zone Change Application (Z-20-1)	rezone 2.8 acres from R3 to R4	northeast of intersection of NW Ritchie Street and NW Stadium Way Extension	PC action suspended
Vulelich Annexation	annex 106 acres of land into the city	southeast of intersection of S Grand Avenue and SW Golden Hills Drive	PC action suspended
Islamic Center Expansion Conditional Use Permit Application (C-18-1)	construct new 1,600-square-foot prayer room building and 900-square-foot addition to Mosque	1155 NE Stadium Way	applicant revising application materials
Elevate Student Housing Conditional Use Permit Application (C-19-3)	develop 292 apartments and commercial parking on 4.9-acre site with variances involving number of parking stalls, parking area dimensions, building height, and floor area ratio	1200 block of SE Johnson Avenue	applicant revising application materials
High Street Short Term Rental Conditional Use Permit Application (C-20-1)	establish short term rentals in an existing duplex	208/210 SE High Street	applicant revising application materials
Irving Street Short Term Rental Conditional Use Permit Application (C-20-2)	establish short term rentals in an existing duplex	511/513 NW Irving Street	applicant revising application materials
Elevate Student Housing Shoreline Permit Application (No. 97)	develop 292 apartments and commercial parking on 4.9-acre site near South Fork of Palouse River	1200 block of SE Johnson Avenue	applicant revising application materials

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KEY TO ZONING DISTRICTS: R1 Single Family Residential; RT Residential Transitional; R2 Low Density Multi-Family Residential; R3 Medium Density Multi-Family Residential; R4 High Density Multi-Family Residential; C1 Neighborhood Commercial; C2 Central Business District; C3 General Commercial; I1 Light Industrial; I2 Heavy Industrial; IRP Industrial Research Park; WSU Washington State University

KEY TO ABBREVIATIONS: CC: City Council; PC: Planning Commission; BOA: Board of Adjustment; HPC: Historic Preservation Commission; DOE: State Department of Ecology; DAHP: State Department of Archaeology and Historic Preservation

NOTES: 1) If an applicant fails to act on a pending application for a period of six months, said application will be dropped from the above list. 2) Numbers in parentheses are planning staff's internal file numbers. 3) Site plan review by city staff is generally conducted for proposed construction of developments other than single family homes, duplexes, or manufactured homes; it does not apply to most construction on the WSU campus.





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Continued from previous page

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Elevate Short Plat Application	divide 4.9 acres into two lots	1200 block of SE Johnson Avenue	staff reviewing application
Alumni Pointe at University Crossing site plan (19-5)	construct condominiums on 3.2-acre parcel	1300 NE North Fairway Drive	staff asked applicant to revise site plan
T-Mobile Wireless Facility site plan (19-16)	install 35-foot-tall cell tower and ground equipment	2992 NE Airport Road	staff asked applicant to revise site plan
Hilltop Suites site plan (20-1)	construct building and parking to provide apartments/hotel rooms	310 NW Old Wawawai Road	staff reviewing revised site plan
Maple Street Apartments site plan (20-2)	demolish existing residence and construct 4-plex	970 NE Maple Street	staff asked applicant to revise site plan
Lincoln Middle School Addition and Renovation site plan (20-3)	construct 14,000-square-foot addition and other site improvements	315 SE Crestview Street	staff asked applicant to revise site plan
Annex Apartments site plan (20-4)	develop 204 apartments on a 9.7-acre parcel	1555 NE Northwood Drive	staff reviewing revised site plan
Aspen Heights Apartments site plan (20-5)	develop 196 apartments on a 23-acre property	southeast of intersection of N Grand Avenue and Albion Drive	staff reviewing revised site plan
Lawson Garden House site plan (20-6)	construct 3,820-square-foot event center on 13-acre park property	705 SE Derby Street	staff reviewing revised site plan
Illinois Street Duplex site plan (20-7)	construct duplex on a proposed 8,305-square-foot lot	610 NE Illinois Street	staff reviewing site plan
Whitman County Transportation Co-op site plan (20-8)	build 29,180-square-foot bus maintenance facility on a 5.4-acre parcel	170 NW Albion Drive	staff reviewing site plan
Palouse Care Network site plan (20-9)	construct 5,914-square-foot health care building on a 20,955-square-foot lot	1540 NE Stadium Way	staff reviewing site plan

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